

**LAW OFFICES
ROBBINS AND ROBBINS LLP**

**568 Amboy Avenue
Woodbridge, New Jersey 07095**

Telephone (732) 636-1600

Telecopier (732) 636-2171

NORMAN ROBBINS
N.J., N.Y. & D.C. Bars
(1920-2012)
SPENCER B. ROBBINS
N.J. & N.Y. Bars

CLAUDIA C. LUCAS
AILEEN GARDNER

SETH D. FRIEDLAND
Of Counsel
N.Y. & N.J. Bars
MARK S. ROTHMAN
Of Counsel
N.Y., N.J. & D.C. Bars

NEW YORK OFFICE

62 William Street, 3rd Floor
New York, NY 10279
Telephone (212) 344-1400
Facsimile (212) 344-2301

**Please Reply To: 568 Amboy Avenue
Woodbridge, N.J. 07095**

December 15, 2015

Judge John Gleeson
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: SilverStar Capital Group, LLC, Robert McDonald, et al vs. Joseph Ioia, et al
Civil Action No. 1:15-CV-5156 (JG)(LB)

Dear Judge Gleeson:

I represent the Defendants, Joseph Ioia and a list of other Defendant companies in the above-captioned matter. I am seeking to file a Motion to Dismiss under Federal Rules of Civil Procedure 12(b)(6), particularly due to the fact that the Statute of Limitations has expired on the Plaintiff's right to seek recovery on a Promissory Note signed on October 28, 2008, and a lawsuit filed on August 28, 2015.

Please accept this letter as my request for a pre-motion conference so that I may file a formal motion to dismiss.

In this matter, Plaintiff, Robert McDonald, has commenced an action to recover under a promissory note from Joseph Ioia signed on October 28, 2008 to SilverStar Capital Group, Inc. which was

part of a deposit for the purchase of one of Joseph Ioia's, which was a lubricating oil distributorship located in Staten Island, New York.

The sale of the business did not go through for a myriad of reasons, including the fact that it was discovered that the Plaintiff in this matter was a convicted felon, who had started a sham investment fund similar to what he had done in the past which caused him to be found guilty of securities fraud, wire fraud and mail fraud. Based on information and belief, Robert McDonald, started the SilverStar Capital Group companies, which he was not allowed to do, and frauded investors into contributing funds to invest in purchasing companies and/or other investments. Plaintiff, particularly raised the sum of \$1.8 million from it appears two individuals, with the representation that Plaintiff already had \$30 million dollars in his bank account. This representation was false. After spending considerable time, money and effort to present his company to be purchased, Joseph Ioia was contacted by the U.S. Attorney's office in Manhattan and apprised of the situation with Robert McDonald. McDonald was found guilty of new charges in relation to this new company and spent time in prison.

In this action, McDonald advises that on his own, he assigned this promissory note from SilverStar Capital Group to himself for raising the \$1.8 million contribution from the two investors and now almost seven years after the note was signed, he commenced a lawsuit to recover under the note. Even reading the complaint and the affidavit submitted by the Plaintiff, McDonald, he even admits that his application is out of time, but is proceeding with this matter anyway, notwithstanding, the issue of unclean hands. There was no authority to assign the promissory note to himself for monies contributed to his sham corporation.

Accordingly, we wish to file our motion to dismiss the Complaint with prejudice.

Respectfully submitted,



Spencer B. Robbins

SBR/pp
cc. Robert McDonald